

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Carlos Efrain Gutierrez Perez)	
)	
Plaintiff,)	Case No. _____
v.)	
)	PLAINTIFFS DEMAND TRIAL
#1 Asian Buffet Inc.; Rendong Yuan;)	BY JURY
Jin Bin Wu)	
)	
Defendants.)	

COMPLAINT

Plaintiff, Carlos Efrain Gutierrez Perez ("Plaintiff"), by attorneys, Justicia Laboral LLC and Daniel Schlade, complain against #1 Asian Buffet Inc., Rendong Yuan, and Jin Bin Wu hereinafter collectively referred to as ("Defendants"). In support of this Complaint, Plaintiff states:

Introduction

1. This action seeks redress for Defendants' willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. ("FLSA"), as well as any related state law claims, for Defendants' failure to pay overtime wages owed.

Parties

2. Plaintiff is a resident of Hallandale Beach, Florida, and was employed by Defendants.

3. Defendant #1 Asian Buffet Inc. is a corporation that conducts business in the state of Florida.

5. Defendant #1 Asian Buffet Inc. operates as an enterprise engaged in commerce or in the production of goods for commerce under 29 USC § 203(s)(1)(A)(i) and (ii) the business has annual gross volume of sales made or business done of at least \$500,000; and because the business is engaged in interstate commerce or in the production of goods for interstate commerce.

Jurisdiction And Venue

6. The Court possesses subject matter jurisdiction over the FLSA claim(s) pursuant to 29 U.S.C. § 216(b) and 28 U.S.C. § 1331 (federal question), and 28 U.S.C. §1337; and supplemental jurisdiction over any related state law claim(s) pursuant to 28 U.S.C. § 1367.
7. Venue is proper in the Southern District of Florida because all underlying facts and transactions occurred in or about Royal Palm Beach, Florida.

Facts Common To All Claims

8. Defendant #1 Asian Buffet Inc. is an “employer” as that term is defined in Section 203 of the FLSA, because it is a privately owned for-profit entity.
9. Defendants Rendong Yuan, and Jin Bin Wu are an “employer” as that term is defined in Section 203 of the FLSA, because: (1) s/he was Plaintiff’s boss; (2) s/he had the power to hire and fire the employees, including Plaintiff; (3) s/he supervised and controlled Plaintiff’s work schedules and conditions of employment; (4) s/he determined the rate and method of payment for employees; and (5) s/he maintained employment records.

COUNT 1 - VIOLATION OF THE FLSA

10. Plaintiff reincorporates by reference Paragraphs 1 through 9, as if set forth in full herein for Paragraph 10.
11. Plaintiff began working for Defendants in or before December 8, 2019, until June 29, 2022.
12. At all times, Plaintiff held the same position at Defendant; he was a cook. Plaintiff was an “employee” of Defendants as that term is used in Section 203 of the FLSA because he was employed by Defendants to perform general cooking duties, and they do not fall into any of the exceptions or exemptions for workers under the FLSA.
13. Although schedules are subject to change, Plaintiff’s general schedule with Defendants required Plaintiff to work on average 72 hours per week.

14. Plaintiff was paid their wages on an hourly basis.

15. Plaintiff's wages were not based on the number of jobs performed or completed, nor was it based on the quality or efficiency of his performance.

16. Plaintiff's rate of pay was \$8.50 per hour through 2020, \$9.03 per hour through 2021 and \$10.07 per hour through 2022 until the end of his employment with Defendants..

17. Throughout the course of Plaintiff's employment with Defendants regularly scheduled and directed Plaintiff to work in excess of forty (40) hours per week.

18. Defendants did not pay Plaintiff minimum wages and not less than one and a half (1.5) times the regular rate at which he was employed during the hours worked in excess of forty (40) hours per week.

19. On information and belief, Defendants have failed to keep proper time records tracking Plaintiffs' time worked; and Defendants' failure and refusal to pay Plaintiff overtime wages for hours worked in excess of forty (40) hours per week was a willful violation of the FLSA.

20. Plaintiff is entitled to recover unpaid minimum wages and overtime wages and liquidated damages for up to three (3) years prior to the filing of this lawsuit. On information and belief, this amount includes: (i) \$21,464.58 in unpaid overtime wages; (ii) liquidated damages of \$22,876.50; (iii) \$1,411.92 in unpaid minimum wages and (iv) Plaintiff's attorney's fees and costs, to be determined. A calculation of Plaintiff's damages are attached as Exhibit A.

WHEREFORE, Plaintiff Carlos Efrain Gutierrez Perez respectfully requests that the Court enter judgment in his favor and against Defendants, for:

A. The amount of unpaid overtime wages for all time worked by Plaintiff in excess of forty (40) hours in individual work weeks, totaling at least \$21,464.58.

B. An award liquidated damages in an amount equal to at least \$22,876.50.

C. An award of unpaid minimum wages of \$1,411.92.

D. A declaration that Defendant violated the FLSA.

E. An award reasonable attorneys' fees and costs; and

F. Any such additional or alternative relief as this Court deems just and proper.

s/ Daniel Schlade

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PLAINTIFF DEMANDS TRIAL BY JURY

Exhibit A - Wage Calculations

Week	Av. Hours/Wk.	Hours Over 40	Hrly. Wage	MW/Hr.	Unpaid MW	Unpaid OT	FLSA Liquidated
12/8/19	72	32	\$8.50	\$8.46	\$0.00	\$136.00	\$136.00
12/15/19	72	32	\$8.50	\$8.46	\$0.00	\$136.00	\$136.00
12/22/19	72	32	\$8.50	\$8.46	\$0.00	\$136.00	\$136.00
12/29/19	72	32	\$8.50	\$8.46	\$0.00	\$136.00	\$136.00
1/5/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
1/12/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
1/19/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
1/26/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
2/2/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
2/9/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
2/16/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
2/23/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
3/1/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
3/8/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
3/15/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
3/22/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
3/29/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
4/5/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
4/12/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
4/19/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
4/26/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
5/3/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
5/10/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
5/17/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
5/24/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
5/31/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
6/7/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
6/14/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
6/21/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
6/28/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
7/5/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
7/12/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
7/19/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
7/26/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
8/2/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
8/9/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
8/16/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
8/23/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
8/30/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
9/6/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
9/13/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
9/20/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
9/27/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
10/4/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
10/11/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
10/18/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
10/25/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
11/1/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
11/8/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
11/15/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
11/22/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
11/29/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
12/6/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
12/13/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
12/20/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
12/27/20	72	32	\$8.50	\$8.56	\$4.32	\$136.96	\$141.28
1/3/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
1/10/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
1/17/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
1/24/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
1/31/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
2/7/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
2/14/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
2/21/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
2/28/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
3/7/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
3/14/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
3/21/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
3/28/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
4/4/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
4/11/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
4/18/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
4/25/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
5/2/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
5/9/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
5/16/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
5/23/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
5/30/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48

6/6/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
6/13/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
6/20/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
6/27/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
7/4/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
7/11/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
7/18/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
7/25/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
8/1/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
8/8/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
8/15/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
8/22/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
8/29/21	72	32	\$9.03	\$8.65	\$0.00	\$144.48	\$144.48
9/5/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
9/12/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
9/19/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
9/26/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
10/3/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
10/10/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
10/17/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
10/24/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
10/31/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
11/7/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
11/14/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
11/21/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
11/28/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
12/5/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
12/12/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
12/19/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
12/26/21	72	32	\$9.03	\$10.00	\$69.84	\$160.00	\$229.84
1/2/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
1/9/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
1/16/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
1/23/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
1/30/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
2/6/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
2/13/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
2/20/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
2/27/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
3/6/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
3/13/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
3/20/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
3/27/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
4/3/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
4/10/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
4/17/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
4/24/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
5/1/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
5/8/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
5/15/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
5/22/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
5/29/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
6/5/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
6/12/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
6/19/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
6/26/22	86	46	\$10.07	\$10.00	\$0.00	\$231.61	\$231.61
TOTALS:					\$1,411.92	\$21,464.58	\$22,876.50